

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|---|---|------------|
| In re Petition of |) | |
| |) | |
| Comcast Cable Communications, LLC, |) | |
| on behalf of its subsidiaries and affiliates |) | |
| |) | CSR-8504-A |
| For Modification of the Television Market of |) | |
| Station KQSL, Channel 8, Fort Bragg, California |) | |

TO: Chief, Media Bureau

REPLY TO OPPOSITION

Comcast Cable Communications, LLC, on behalf of its subsidiaries and affiliates (“Comcast”), hereby replies to the Opposition to Petition for Special Relief (“Opposition”) filed by Jeff Chang, licensee of television station KQSL (Channel 8, Fort Bragg, California) (“KQSL” or “Station”) in the above-captioned proceeding. The Opposition fails to rebut Comcast’s demonstration that all four relevant statutory factors support modifying the Station’s “must carry” market to exclude Comcast’s San Francisco Bay Area communities (the “Cable Communities”). Indeed, the Opposition’s factual concessions regarding the modification factors and its reliance on promises regarding *future* programming clearly establish that Comcast’s Petition should be granted.

The Opposition fails to establish even a minimal “nexus” between the Station and the Cable Communities. The KQSL filing does not dispute that the Station is located an average of 140 miles from the Cable Communities, does not provide an “over-the-air” broadcast signal to the Cable Communities, and does not *currently* offer significant “local” programming. Nor does the Opposition dispute that KQSL has never been carried in the Cable Communities and that it has no measureable viewership in any of the Cable Communities. Finally, the Opposition does not dispute that Comcast already carries numerous other “local” broadcast stations in the Cable Communities.

Having essentially conceded the controlling market modification factors, the Opposition is based almost entirely on the Station's *promise* to provide "a unique and local programming mix" in the future.¹ The Commission has previously rejected similar arguments. Even if KQSL eventually were to provide the promised programming, such programming alone cannot overcome the evidence in Comcast's Petition demonstrating that the Cable Communities are not part of KQSL's natural market.

Congress adopted "must carry" requirements in 1992 to ensure that cable operators would not act as "gatekeepers" and deny local broadcasters' access to their "over-the-air" audience.² Significantly, this case does *not* involve a cable operator seeking to deny a broadcaster access to its local audience. To the contrary, mandatory carriage of KQSL in the Cable Communities would extend the Station's audience far *beyond* the area KQSL reaches through its own over-the-air broadcast. Indeed, the inclusion of the market modification provisions in Section 614 of the Communications Act³ "reflect a recognition that ... a community within a station's [DMA] may be so far removed from the station that it cannot be deemed part of the station's market."⁴ That is precisely the case presented here.⁵

¹ See Opposition at 10.

² See Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, § 2(a)(12), 106 Stat 1460 (1992) (codified as "Congressional Findings and Policy for Pub. L. 102-385" at 47 U.S.C. § 521 Note (2009)).

³ See 47 U.S.C. § 534.

⁴ H.R. Rep. 102-628, 102d Cong., 2d Sess. 97-98 (1992).

⁵ KQSL errs in suggesting that Comcast is improperly seeking to "rush" this proceeding. See Opposition at 2. The Petition was prepared in response to KQSL's recent (now "suspended" or withdrawn) carriage request. It makes perfect sense for the Commission to resolve this matter now, before either party makes additional business decisions based on potentially erroneous expectations regarding KQSL's carriage rights.

I. KQSL Fails to Rebut Comcast's Demonstration That All Four Statutory Factors Support a Market Modification.

As Comcast demonstrated in its Petition, the four market modification factors specified in the Communications Act all support the requested relief.⁶ Comcast has established:

- KQSL's lack of coverage in the Cable Communities;
- KQSL's lack of historic carriage in the Cable Communities;
- KQSL's lack of viewership in the Cable Communities; and
- The extensive coverage provided by other qualified broadcast stations.

The Opposition fails to provide any meaningful rebuttal to Comcast's evidence regarding these modification factors.

A. KQSL Is Geographically Remote and Provides No Local Coverage or Other Local Service.

The vast physical separation between KQSL and the Cable Communities argues strongly in favor of the requested market modification. There is no dispute here that KQSL -- located an average of 140 miles from the Cable Communities -- fails to provide a "noise-limited" service coverage of 36 dBu (the digital equivalent of an analog Grade B contour) over the Cable Communities. Indeed, the Opposition never claims that KQSL delivers a detectable over-the-air signal to the Cable Communities. Aside from an oblique reference to KQSL's exploration of the use of translators "for maximizing the Station's service potential,"⁷ the Opposition simply ignores

⁶ See 47 U.S.C. § 534(h)(1)(C).

⁷ Opposition at 4. KQSL cannot rely on translators to establish a "local presence" for purposes of the "coverage" prong of the market modification test. See, e.g., *Time Warner New York City Cable Group*, 11 FCC Rcd. 6528 at ¶ 24 (1996) ("[S]uch [translator] coverage does not lessen the relevance of the parent's failure to place a Grade B Contour over the subject cable communities as Grade B coverage is indicative of the station's natural market."); *Dynamic Cablevision of Florida, Ltd., et al.*, 12 FCC Rcd. 9952 at ¶ 13 (1997).

KQSL's lack of signal coverage. In so doing, KQSL largely concedes the over-the-air coverage factor that the Commission has found to be critical in deciding market modification cases.⁸

KQSL's absence of over-the-air coverage in the Cable Communities is matched by an absence of programming coverage. Although the Opposition emphasizes *future* programming coverage, it is silent regarding KQSL's *current* programming. Nowhere in the Opposition is there any explanation of KQSL's existing programming schedule, let alone a detailed discussion of any "local" programming *now* being aired.⁹ The glaring absence of any such evidence must be construed against KQSL. If KQSL had a *bona fide* basis to contend that it is already broadcasting an extensive array of "local" programming specifically targeting the Cable Communities, it surely would have shared that information with the Commission.¹⁰

KQSL's failure to "cover" the Cable Communities is a natural and understandable reflection of the substantial distances and geographic barriers that separate the Station from the Cable Communities. Ironically, KQSL's attempts to minimize the significance of this substantial separation have the exact opposite effect. For example, KQSL begins its discussion of the "physical connection" between Fort Bragg and the Cable Communities by emphasizing, "Historic California State Route 1 provides a direct link down the coast from Fort Bragg to the heart of San Francisco."¹¹

⁸ See, e.g., *Time Warner Cable*, 18 FCC Rcd. 4990 at ¶ 12 (2003); *Frontier*, 18 FCC Rcd. 9598 at ¶ 12 (2003) ("*Frontier*").

⁹ The Opposition notes that KQSL's Retro Television Network affiliation "has been terminated," but it does not explain what programming KQSL now broadcasts in place of Retro Television. Opposition at 4-5. Further, the *titles* of future programs themselves provide no evidence from which a connection between the Station and the Cable communities might reasonably be ascertained.

¹⁰ The Commission has made it clear that simply broadcasting in a foreign language does not in and of itself establish it as local programming. See, e.g., *Lone Pine Television, Inc.*, 18 FCC Rcd. 23955 at ¶ 20 (2003); *Frontier* at ¶ 12.

¹¹ Opposition at 6.

KQSL conveniently fails to mention that the referenced drive along Route 1 covers nearly 180 miles and would take approximately 4 ½ hours to complete.¹² KQSL cannot expect the Commission to rely on a 4 ½ hour scenic drive as evidence of a *close* nexus between Fort Bragg and San Francisco.¹³ KQSL's other evidence of "connections" between Fort Bragg and the Cable Communities are equally unavailing.¹⁴ The Opposition claims, for example, that KQSL is politically linked with the Cable Communities because Fort Bragg and a few of the Cable Communities are included in the same Congressional District.¹⁵ But this particular Congressional District also includes a large swath of California outside of the Cable Communities, including portions of two other DMAs and an area extending more than 285 miles north of San Francisco, along the California-Oregon border.¹⁶ In any event, the vast majority of the Cable Communities (and all of the "hub" communities in the Bay Area – *i.e.*, San Francisco, Oakland, and San Jose) are situated outside of the First Congressional District, thereby undermining KQSL's claimed political

¹² See Exhibit 1.

¹³ To put that travel time in perspective, it equals the predicted 4 ½ hour drive time between Washington, D.C. and New York City. See Exhibit 2.

¹⁴ The Opposition's discussion of the relative increase in Mendocino County residents commuting to the San Francisco Bay Area from 1980 to 2000 reveals just how tenuous the Station's ties are to the Cable Communities. See Opposition at 7-8. The actual number of Mendocino County residents that commuted to the Bay Area as of the 2000 Census was still a very small minority —just 1,527 out of 37,663 Mendocino County workers. See *id.* at n.24. And there is no evidence that these commuters were even from the Fort Bragg area, as opposed to other, more closely situated communities in southern Mendocino County. In any event, the relevant inquiry for this proceeding is *not* whether Fort Bragg residents look to the San Francisco Bay Area to satisfy their news and informational needs, but whether Bay Area residents look to Fort Bragg. See Petition at n.26. There is simply no evidence they do. As shown in the Petition, an extremely small number of Bay Area workers (784) commuted to Mendocino County in 2000. As noted in the Petition, this represents an insignificant .01% of the Bay Area population. See Petition at n.29.

¹⁵ See Opposition at 6.

¹⁶ The distance from San Francisco to Crescent City in the northern reaches of the First Congressional District was obtained from <http://indo.com/distance/>. See Exhibit 3.

connection.¹⁷ In short, the Opposition fails to provide sufficient evidence to overcome the substantial geographic and over-the-air coverage gap between KQSL and the Cable Communities.¹⁸

B. KQSL Has No Historical Carriage.

The Opposition concedes that KQSL has *never* been carried on Comcast's systems serving the Cable Communities. KQSL asks the Commission to discount this lack of historic carriage, however, arguing that the Station's 2010 change of ownership effectively renders it a "new" station, which has not yet had the opportunity to build a history of cable carriage.¹⁹

KQSL's argument is at odds with the premise underlying the historical carriage factor. Logically speaking, historic carriage is probative evidence of the nexus between a broadcast station and particular cable systems. An ownership change does not automatically transform KQSL into a "new" station for purposes of this analysis, any more than an ownership change involving a broadcast station that was historically carried in the Cable Communities would render that historic carriage moot.²⁰ KQSL is essentially the same broadcast signal that has been licensed to Fort Bragg

¹⁷ Notwithstanding KQSL's claims, the fact that the wine region of northern California happens to encompass both Fort Bragg and some of the Cable Communities, *see* Opposition at 7, certainly does not establish any meaningful nexus in the context of a market modification analysis. Indeed, under KQSL's reasoning, broadcast stations in the Eureka DMA (Humboldt County) could also claim a local nexus to the Cable Communities by virtue of their inclusion in the same North Coast Wine Region. *See id.*

¹⁸ The other "evidence" of connections between the Station and the Cable Communities presented in KQSL's Opposition is even less compelling than the evidence addressed in this Reply. The absence of any stronger evidence confirms the lack of a substantial nexus.

¹⁹ *See* Opposition at 2-5.

²⁰ Contrary to KQSL's suggestion, the fact that the Fort Bragg broadcast station historically operated as a satellite of another Bay Area station argues *against* now extending the Station's must carry rights in the Cable Communities. This satellite operation presumably arose because the Fort Bragg station covers a different geographic area than broadcast stations licensed to the Bay Area itself. KQSL's apparent interest in transforming itself into a Bay Area broadcaster does not alter its actual over-the-air coverage or its historic lack of service to the Cable Communities.

as a full power station for more than 20 years.²¹ The absence of carriage in the Cable Communities over a two decade span is compelling evidence that the Station lacks a nexus with the Cable Communities, and that historic fact is not affected by KQSL's recent ownership change.²²

C. KQSL Lacks Local Viewership.

The Opposition concedes that KQSL has no reported over-the-air viewership in the Cable Communities. The Station again tries to avoid the impact of this concession by claiming that the "viewership" factor should be discounted because KQSL is a "'new' station with specialized programming"²³ As noted above, KQSL is not truly a "new" station. It is successor to a broadcast station that has been licensed to Fort Bragg for decades. Moreover, the Opposition fails to provide any evidence that KQSL qualifies for "specialty" station status based on its current programming. KQSL's lack of *any* audience share in the Cable Communities strongly supports Comcast's Petition.

²¹ See Petition, Exhibit 4.

²² Assuming *arguendo* KQSL's recent ownership change does justify "discounting" the significance of the Station's historic lack of cable carriage, that does *not* mean that the factor is rendered meaningless or somehow now favors KQSL. To the contrary, even on a "discounted" basis, KQSL's lack of historic cable carriage in the Cable Communities supports Comcast's Petition. See, e.g., *Time Warner Cable*, 12 FCC Rcd. 23249 at ¶ 15 (1997) ("*Time Warner*") ("The fact that [the station] has not historically been carried on [the] cable system serving the Communities is therefore probative and, while not decisional, will be taken into consideration as a factor in favor of the requested market modification."). The Commission explained in a market modification case more than a decade ago: "The fact that a station is new or of specialized appeal does not mean that its logical market area is without limits or that it should be exempt from the Section 614(h) market modification process." *MediaOne of Los Angeles, Inc., et al*, 15 FCC Rcd. 19386 at ¶ 24 (2000). See also *Cable Satellite of South Miami, Inc.*, 13 FCC Rcd. 298 at ¶ 19 (1998). KQSL cannot rely on its recent ownership change or its promised format change to evade the statutorily-mandated market modification process.

²³ See Opposition at 9.

D. Comcast Systems Carry Numerous Other Qualified Local Stations.

KQSL does not dispute Comcast's showing that its systems serving the Cable Communities already carry an unusually high number of broadcast stations licensed to communities located in the San Francisco Bay Area. These stations provide predicted digital service coverage and/or an actual over-the-air signal and satisfy the news and informational needs of the Cable Communities.²⁴ Further, KQSL accepts the fact that Comcast already carries broadcast stations KTSF, KCNS, and KICU with up to 6 feeds of Asian language/targeted programming, and up to an additional 23 available cable channels with Asian language/targeted programming.²⁵

Thus, as noted in the Petition, even if KQSL were to provide a significant amount of programming specifically targeting the Cable Communities (which it does not), the coverage provided by other *truly local* stations already carried on Comcast systems serving the Cable Communities would undermine any special benefits associated with KQSL. Comcast's carriage of numerous other truly local stations strongly supports its modification request.²⁶

²⁴ See Petition at 10-11.

²⁵ See Petition at 10-11, Exhibit 9, and Exhibit 19. Notwithstanding KQSL's allegations regarding KCNS, *see* Opposition at 8, that station continues to offer an Asian-language programming feed, and Comcast continues to carry that Asian-language feed.

²⁶ The Station states that Comcast's market modification request "appears contrary to the spirit of a Memorandum of Understanding ("MOU") entered into between Comcast and NBC Universal and certain Asian American Leadership Organizations in connection with the Comcast-NBC Universal merger." Opposition at 2-3. To the contrary, Comcast has diligently complied with the MOU in both letter and spirit, including among other things, recently announcing plans to expand carriage of Mnet, an English-language Asian channel, by over 2 million subscribers. *See* <http://blog.comcast.com/2011/08/building-a-strong-record-of-diversity-in-2011.html>. Further, the Station's vague allegation – based solely on its ownership – rings particularly hollow when one considers Comcast's systems serving the San Francisco Bay Area Cable Communities carry multiple Asian-oriented broadcast feeds, as well as an extensive array of Asian-oriented cable networks. The Station, in contrast, does not even claim to be currently offering Asian-themed programming.

II. Promises of Future Programming Are Not Relevant to This Proceeding.

As noted above, the Opposition does not provide any details about the local and Asian-targeted programming (if any) *currently* being broadcast by KQSL. Although it includes a heading claiming that “KQSL Delivers a Unique, Local Programming Service,”²⁷ the Opposition falls short of describing any programming that is actually broadcast by KQSL today. Instead, the Opposition is replete with references that the Station is “developing a program service,”²⁸ “working to implement a dramatically revised programming schedule,”²⁹ “in the process of developing” programming,³⁰ and “working to deliver a targeted programming service.”³¹ The Opposition relies almost entirely on the Station’s *promise* to provide local and Asian-targeted programming in the *future*.

The Opposition asks the Commission to essentially ignore the statutory market modification factors in order to “provide the Station’s new owner an opportunity to implement his planned local programming for the Station before summarily deleting all of the Cable Communities from the Station’s market.”³² The Commission, however, has specifically rejected similar speculative programming arguments. In *TCI of Illinois, Inc.*, for example, the Commission stated:

WCEE asks that we take into consideration its future programming commitments. For the purposes of determining whether a station is local to a specific market at a given point in time, ***our focus is on the programming actually being aired. We are unable to base our market modification decision on programming that may or may not***

²⁷ Opposition at 8.

²⁸ *Id.* at 3.

²⁹ *Id.* at 3-4.

³⁰ *Id.* at 8.

³¹ *Id.* at 9.

³² *Id.*

be aired at some future date. The lack of actual, targeted programming in this case weighs against WCEE in our analysis.”³³

KQSL’s promises regarding future programming cannot be relied upon to deny Comcast’s Petition. Indeed, a contrary approach would allow broadcasters to easily manipulate market modification proceedings with promises of future programming that may or may not be sustainable. Comcast’s Petition must be evaluated under the multi-prong analysis specified by Congress -- not on promises of programming changes.

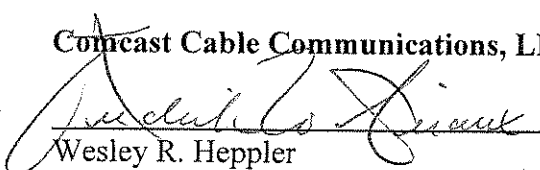
CONCLUSION

This case presents the precise factual scenario for which Congress established the market modification procedure – a broadcast station licensed to the far reaches of a large television market seeking carriage in “hub” cable communities with which it lacks a significant nexus. Nothing in KQSL’s Opposition overcomes Comcast’s evidence supporting a market modification. For the reasons set forth in both the Petition and this Reply, the Commission should modify KQSL’s must carry market to exclude the Cable Communities.

Respectfully submitted,

Comcast Cable Communications, LLC

By:


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(202) 973-4200

August 16, 2011

Its Attorneys

³³ 12 FCC Rcd. 23231 at ¶ 24 (1997) (Emphasis added).

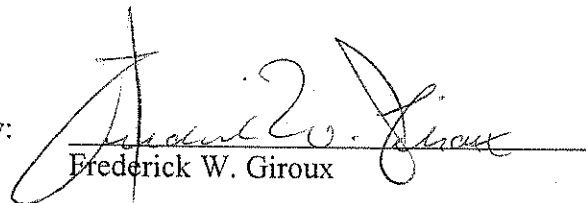
CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The below-signed signatory has read the foregoing REPLY TO OPPOSITION, and to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.

Respectfully submitted,

Comcast Cable Communications, LLC
on behalf of its subsidiaries and affiliates

By:


Frederick W. Giroux

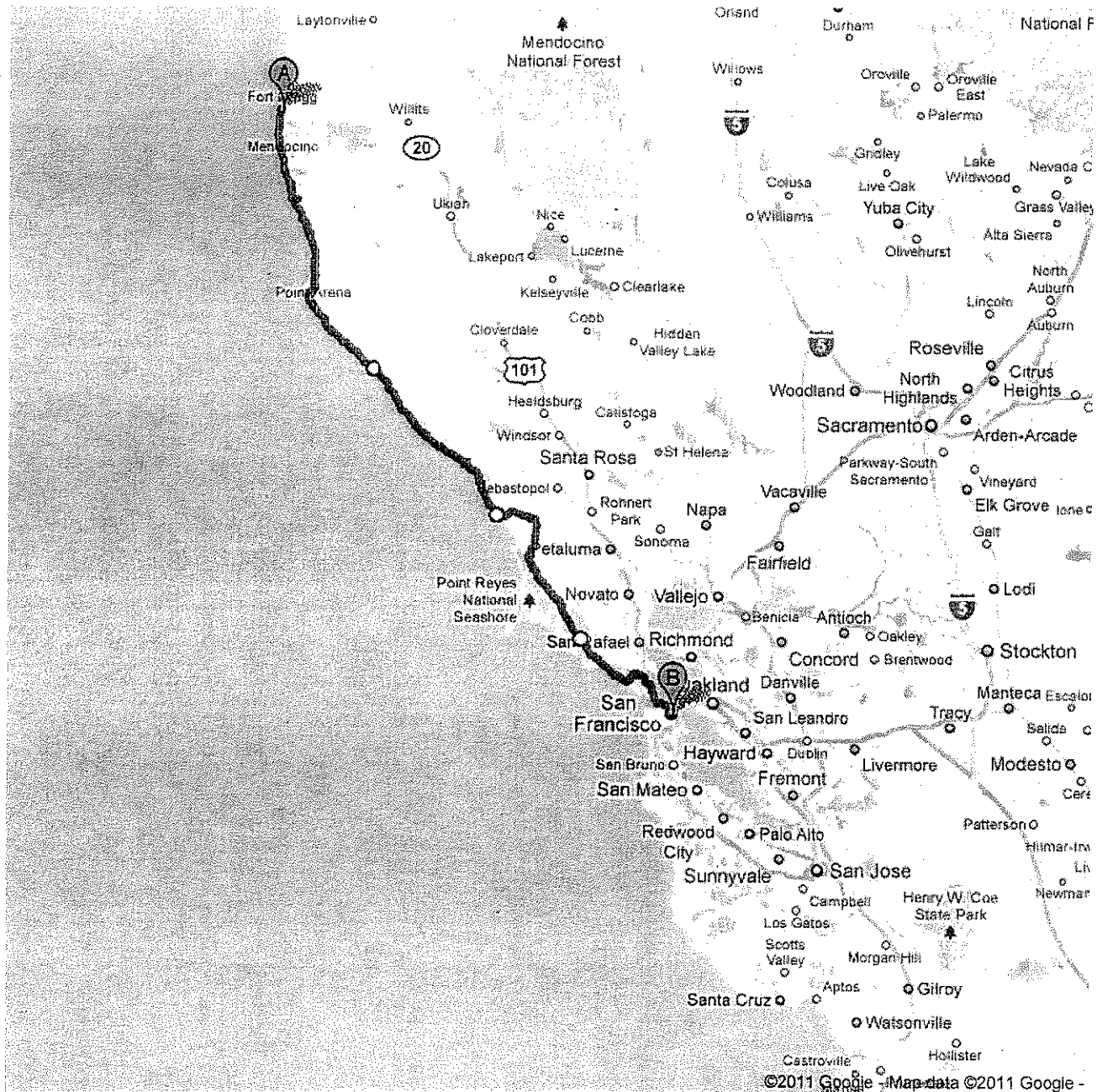
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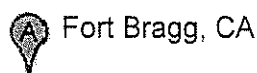
August 16, 2011

Its Attorney


EXHIBIT 1


Google maps


Directions to San Francisco, CA
178 mi – about 4 hours 25 mins**Save trees. Go green!**Download Google Maps on your
phone at google.com/gmm





1. Head **south** toward **E Laurel St**


go 0.1 mi
total 0.1 mi
-  2. Turn right at the 2nd cross street onto **E Redwood Ave**


go 210 ft
total 0.1 mi
-  3. Take the 1st left onto **CA-1 S/N Main St/Shoreline Hwy**
Continue to follow CA-1 S/Shoreline Hwy
About 32 mins


go 20.0 mi
total 20.1 mi
-  4. Turn right to stay on **CA-1 S/Shoreline Hwy**
About 36 mins


go 24.4 mi
total 44.5 mi
-  5. Turn right onto **CA-1 S/Main St**
Continue to follow CA-1 S
About 1 hour 33 mins


go 72.5 mi
total 117 mi
-  6. Turn right onto **CA-1 S/Shoreline Hwy** (signs for **California 1 S**)
About 17 mins


go 11.3 mi
total 128 mi
-  7. Turn right to stay on **CA-1 S/Shoreline Hwy**
About 17 mins


go 10.5 mi
total 139 mi
-  8. Turn left onto **CA-1 S/State Route 1 S** (signs for **San Francisco**)
About 2 mins


go 0.2 mi
total 139 mi
-  9. Take the 3rd right onto **CA-1 S/Shoreline Hwy**
About 37 mins


go 22.1 mi
total 161 mi
-  10. Turn right to stay on **CA-1 S/Shoreline Hwy**
About 3 mins


go 2.2 mi
total 163 mi
-  11. Turn right to stay on **CA-1 S/Shoreline Hwy**
About 4 mins


go 1.8 mi
total 165 mi
-  12. Turn right onto **CA-1 S**
About 2 mins


go 1.2 mi
total 166 mi
-  13. Turn right to stay on **CA-1 S**
About 1 min

go 0.5 mi
total 167 mi
-  14. Take the 2nd right to stay on **CA-1 S**

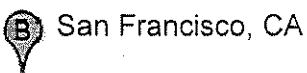
go 0.2 mi
total 167 mi
-  15. Take the ramp onto **US-101 S**
Partial toll road
About 13 mins

go 8.9 mi
total 176 mi
-  16. Turn right onto **Van Ness Ave**
About 6 mins

go 1.9 mi
total 178 mi
-  17. Turn right onto **12th St**

go 0.1 mi
total 178 mi
-  18. Take the 1st right onto **Market St**

go 322 ft
total 178 mi

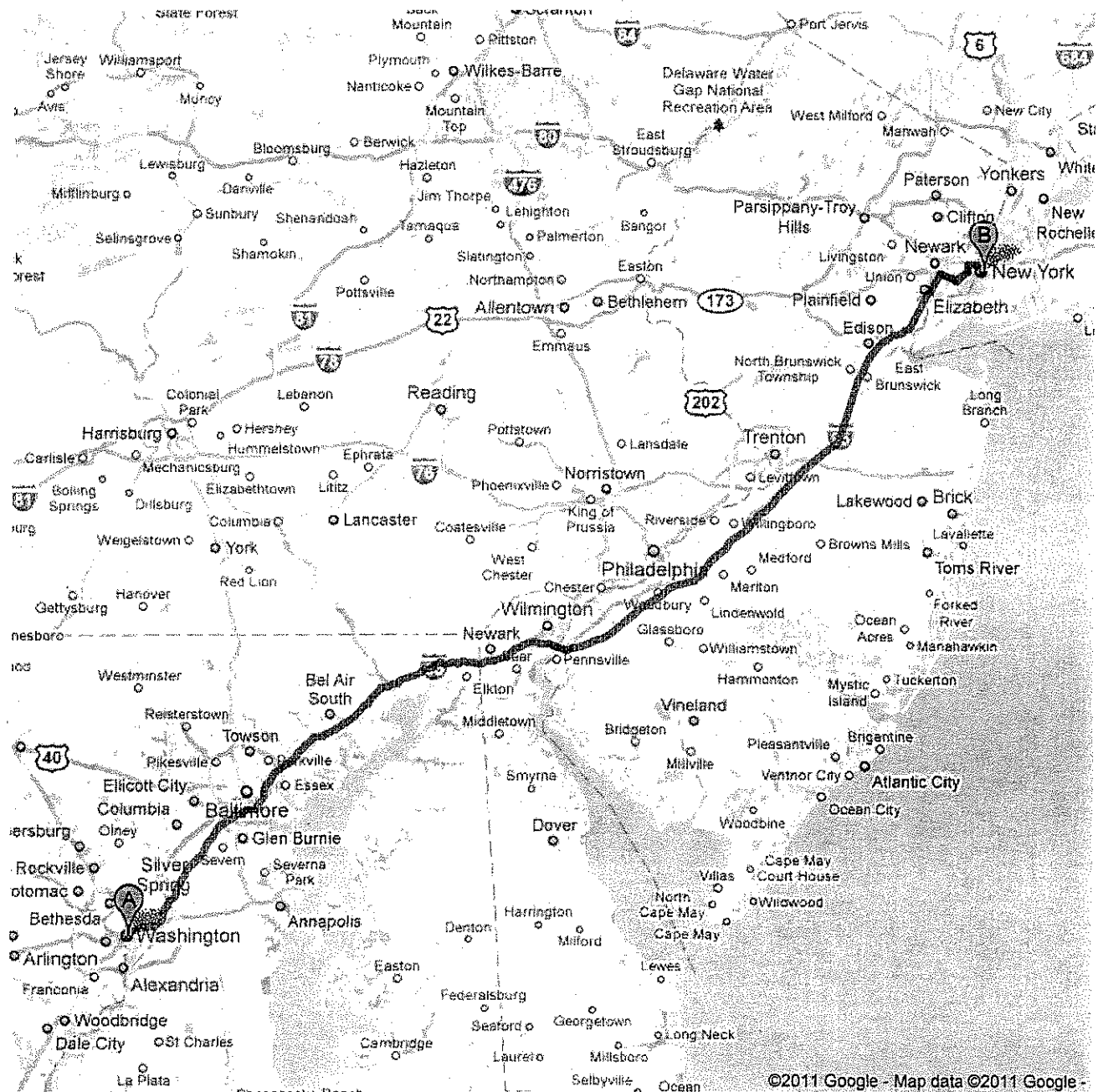


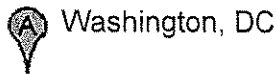
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EXHIBIT 2

Google maps

Directions to New York, NY
225 mi – about 4 hours 27 mins**Save trees. Go green!**Download Google Maps on your
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Washington, DC

- | | | |
|--|---|-----------------------------|
| | 1. Head east on E St NW toward E Executive Ave NW Partial restricted usage road | go 0.1 mi total 0.1 mi |
| | 2. Turn left onto 15th St NW About 1 min | go 0.2 mi total 0.4 mi |
| | 3. Turn right onto New York Ave NW About 2 mins | go 0.6 mi total 0.9 mi |
| | 4. Continue onto K St NW | go 0.1 mi total 1.1 mi |
| | 5. Turn left onto 7th St NW | go 292 ft total 1.1 mi |
| | 6. Take the 2nd right onto New York Ave NW About 8 mins | go 3.0 mi total 4.1 mi |
| | 7. Continue onto US-50 E Entering Maryland About 3 mins | go 1.7 mi total 5.9 mi |
| | 8. Take the Balt-Wash Pkwy exit on the left toward Baltimore About 1 min | go 0.5 mi total 6.4 mi |
| | 9. Merge onto Baltimore-Washington Pkwy About 33 mins | go 27.0 mi total 33.4 mi |
| | 10. Take the Harbor Tunnel Thrwy/I-895 N exit Toll road | go 0.3 mi total 33.7 mi |
| | 11. Merge onto I-895 N Partial toll road About 13 mins | go 10.4 mi total 44.0 mi |
| | 12. Merge onto I-95 N Partial toll road Entering Delaware About 1 hour 3 mins | go 58.6 mi total 103 mi |
| | 13. Slight right onto I-295 N/Delaware Turnpike (signs for Del Mem Br/NJ-Ny) Continue to follow I-295 N Entering New Jersey About 7 mins | go 6.5 mi total 109 mi |
| | 14. Slight left onto US-40 E Toll road About 1 min | go 0.9 mi total 110 mi |
| | 15. Continue onto New Jersey Turnpike N Toll road About 1 hour 6 mins | go 59.9 mi total 170 mi |
| | 16. Continue onto I-95 N Toll road About 46 mins | go 43.6 mi total 214 mi |
| | 17. Take exit 14-14A-14B-14C for I-78 toward US-1/US-9/US-22/Newark Airport/Holland Tunnel Toll road | go 0.4 mi total 214 mi |
| | 18. Keep right at the fork and merge onto I-78 E Partial toll road Entering New York | go 10.0 mi total 224 mi |

About 16 mins

19. Continue onto **Lincoln Hwy**
Toll road

go 0.2 mi
total 224 mi



20. Keep left at the fork to continue toward **Laight St**

go 374 ft
total 224 mi



21. Keep left at the fork to continue toward **Laight St**

go 0.1 mi
total 224 mi



22. Slight left onto **Laight St**

go 315 ft
total 224 mi



23. **Laight St** turns slightly right and becomes **Canal St**
About 1 min

go 0.2 mi
total 225 mi



24. Turn right onto **Broadway**
About 1 min

go 0.4 mi
total 225 mi



New York, NY

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EXHIBIT 3


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BALI & INDONESIA ON THE NET

Distance between **Crescent City, California, United States** and **San Francisco, California, United States**, as the crow flies:

287 miles (462 km) (249 nautical miles)

Initial heading from Crescent City to San Francisco:
south-southeast (161.7 degrees)

Initial heading from San Francisco to Crescent City:
north-northwest (342.8 degrees)

Carbon footprint if you travel this distance by [car](#), [train](#) or [airplane](#).

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Crescent City, California, US [[hotels](#), [attractions](#), [books](#), [community](#), [map](#)]

County: **Del Norte County**
 Location: **41:45:15N 124:11:52W**
 Population (1990): **4380**
 Elevation: **44 feet**

San Francisco, California, US [[hotels](#), [attractions](#), [books](#), [community](#), [map](#)]

County: **San Francisco County**
 Location: **37:47:36N 122:33:17W**
 Population (1990): **723959**
 Elevation: **63 feet**

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KAYAK

CERTIFICATE OF SERVICE

I, Deborah D. Williams, do hereby certify on this 16th day of August, 2011 that a true and correct copy of the foregoing "REPLY TO OPPOSITION" has been sent via U.S. mail, postage prepaid to the following:

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KMTP-TV

Minority Television Project Inc.
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KRCB

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Deborah D. Williams

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|---|---|------------|
| In re Petition of |) | |
| |) | |
| Comcast Cable Communications, LLC, |) | |
| on behalf of its subsidiaries and affiliates |) | |
| |) | CSR-8504-A |
| For Modification of the Television Market of |) | |
| Station KQSL, Channel 8, Fort Bragg, California |) | |

TO: Chief, Media Bureau

RESPONSE TO SUPPLEMENT

~~Comcast Cable Communications, LLC~~, on behalf of its subsidiaries and affiliates ("Comcast"), hereby responds to the Supplement to ~~Opposition to Petition for Special Relief~~ ("Supplement") filed by Jeff Chang, ~~licensee of television station KQSL~~ (Channel 8, Fort Bragg, California) ("KQSL" or "Station") in the above-captioned proceeding.¹ Notwithstanding KQSL's suggestion to the contrary, the programming identified in the Supplement is insufficient to overcome Comcast's demonstration that the four market modification factors specified in the Communications Act all support the requested relief.

The Supplement does not dispute that KQSL is geographically remote from the Cable Communities and that it fails to provide a detectable over-the-air signal or 36 dBu "noise-limited" service coverage over them.² Nor does the Supplement dispute KQSL's lack of historic carriage or programming coverage, or the conspicuous absence of *any* reported "off-air" viewership in the Cable

¹ Comcast is filing a Motion for Leave to File Response, contemporaneously herewith.

² The noise-limited service coverage of 36 dBu is the digital equivalent of an analog Grade B. contour.

Communities.³ Instead, the Supplement contends that the recent addition of a small amount of programming labeled “local,” justifies denying the pending Petition. Comcast respectfully submits that KQSL’s approach is fundamentally at odds with the well-balanced market modification test. The integrity of that test would, in fact, be fatally undermined if its outcome were dictated by a Supplement announcing the addition (or deletion) of individual programs.

The Supplement identifies only a few “local” programming additions, and much of that programming is either of general interest with no specific connection to the particular Cable Communities, or already available to residents of the Cable Communities from other sources. For example, *The Ventures Program from Stanford University* (which represents half of the programming time described in the Supplement), appears to be a broadcast of Stanford’s lecture series relating to general technology and business investment issues. Even if considered local to some of the Cable Communities, these presentations date back as far as two years and are already available online at <http://ecorner.stanford.edu/>.⁴ Similarly, *Silicon Valley Entrepreneurs* is produced by KMVT Community Television, a community/public access station, which is already provided by Comcast in several Cable Communities and has been widely available on the Internet for up to two years.⁵ The single sporting event scheduled to be broadcast by KQSL this month, the *Tiburon*

³ Additionally, as noted in Comcast’s Petition and Reply, Comcast’s systems serving the San Francisco Bay Area Cable Communities already carry an unusually high number of local broadcast stations, including multiple Asian-oriented broadcast feeds, as well as an extensive array of Asian-oriented cable networks. The Supplement’s suggestion that a grant of the Petition in this case would somehow undercut Comcast’s compliance with the MOU entered into between Comcast and NBC Universal and certain Asian American Leadership Organizations is unfounded.

⁴ See Exhibit 1

⁵ As shown in Exhibit 2, KMVT uploaded to YouTube the episodes of *Silicon Valley Entrepreneur* included in the Supplement, as long ago as October 2009. Similarly, the program, *California Life*, is already carried by Comcast on its Hometown Network on its cable systems throughout the state.

Classic, appears to be an elite sporting event of broad appeal intended for and available to national and international audiences alike.⁶

In any event, the program offerings identified in the Supplement are *de minimis* at best -- totaling only two hours per week of KQSL's entire broadcast schedule.⁷ Moreover, the Commission has specifically rejected broadcasters' attempts to manipulate the market modification process by introducing "local" programming. In *TCI of Illinois, Inc.*, for example, the Commission stated:

We cannot conclude that a station must be considered "local," as Congress intended that term to mean in Section 614 of the 1992 Cable Act, solely by airing some occasional programming associated with some of the communities in question. *Programming is considered in the context of Section 614 proceedings only insofar as it serves to demonstrate the scope of a station's market and service area, not as a quid pro quo that guarantees carriage or as an obligation that must be met to obtain carriage.*⁸

This case represents the precise factual scenario for which Congress established the market modification procedure -- a broadcast station licensed to the far reaches of a large television market seeking carriage in "hub" communities with which it lacks any significant nexus. The limited program offerings identified in the Supplement are insufficient to overcome Comcast's evidence

⁶ See Exhibit 3.

⁷ This represents only approximately 1% of a typical 168-hour broadcast week. It appears that the remainder of the programming broadcast by KQSL consists largely of music videos from Cool Music Network. See Exhibit 4

⁸ 12 FCC Rcd 23231 at ¶ 24 (1997) (emphasis added).

supporting a market modification. For the reasons set forth in the Petition, Reply and this Response, the Commission should modify KQSL's must carry market to exclude the Cable Communities.

Respectfully submitted,

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October 19, 2011

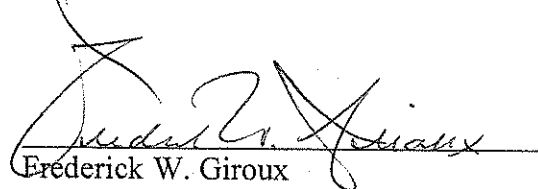
CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The below-signed signatory has read the foregoing RESPONSE TO SUPPLEMENT, and to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.

Respectfully submitted,

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By:


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October 19, 2011

EXHIBIT 1



Wichita State University's Entrepreneurial and Social Change



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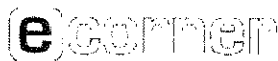
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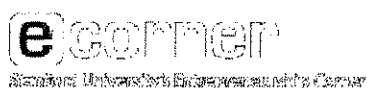
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| Video | The Entrepreneurship of Venture Capital | Ann Miura-Ko | FLOODGATE | 05:12 | 10/2010 |
| Video | Running Out of Iterations | Ann Miura-Ko | FLOODGATE | 01:19 | 10/2010 |
| Video | Business Models Matter | Ann Miura-Ko | FLOODGATE | 02:26 | 10/2010 |
| Video | Investing in Thunder Lizards | Ann Miura-Ko | FLOODGATE | 01:08 | 10/2010 |
| Video | The Collapsing Cost of Product Building | Ann Miura-Ko | FLOODGATE | 02:26 | 10/2010 |
| Video | Rapid Business Model Testing | Ann Miura-Ko | FLOODGATE | 03:22 | 10/2010 |
| Video | "Lean" Does Not Mean "Small" | Ann Miura-Ko | FLOODGATE | 02:21 | 10/2010 |
| Video | Is Work/Life Balance Possible? | Ann Miura-Ko | FLOODGATE | 02:08 | 10/2010 |


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| Podcast | Solving Problems Makes a Great Business | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 01:01:13 | 10/2010 |
| Video | Solving Problems Makes a Great Business (Entire Talk) | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 01:00:38 | 10/2010 |
| Video | Facebook Refused to Sell | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 04:34 | 10/2010 |
| Video | Betting on the Inevitable | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 02:19 | 10/2010 |
| Video | Why Google Won Desktop Search | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 03:40 | 10/2010 |
| Video | Reasons to Acquire a Company | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 01:58 | 10/2010 |
| Video | Leading a Young Team to Success | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 03:51 | 10/2010 |
| Video | Making Great Leaders | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 03:02 | 10/2010 |
| Video | Historical Take on the Internet Revolution | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 02:17 | 10/2010 |
| Video | Recognizing a Great Job | Chi-Hua Chien · Dan Rosensweig | KPCB, Chegg | 01:42 | 10/2010 |

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| Video | Transformational Change Through Technology | Aneesh Chopra | US Office of Science and Technology | 02:57 | 05/2011 |
| Video | Innovate for America [Entire Talk] | Aneesh Chopra | US Office of Science and Technology | 59:52 | 05/2011 |
| Video | Innovation Pathway for Bio-design | Aneesh Chopra | US Office of Science and Technology | 01:21 | 05/2011 |
| Video | Fix Immigration to Grow Innovation | Aneesh Chopra | US Office of Science and Technology | 02:35 | 05/2011 |
| Video | Leveraging Data for Improved Productivity | Aneesh Chopra | US Office of Science and Technology | 02:07 | 05/2011 |
| Video | Market Opportunities in Healthcare Innovation | Aneesh Chopra | US Office of Science and Technology | 05:42 | 05/2011 |
| Video | Unleashing the Clean Energy Revolution | Aneesh Chopra | US Office of Science and Technology | 03:18 | 05/2011 |
| Video | Customer Feedback and Contests Come to Government | Aneesh Chopra | US Office of Science and Technology | 02:14 | 05/2011 |
| Video | Opening the Education R & D Pipeline | Aneesh Chopra | US Office of Science and Technology | 05:09 | 05/2011 |
| Video | Use Free Open Data and Solve Problems | Aneesh Chopra | US Office of Science and Technology | 02:11 | 05/2011 |
| Podcast | Innovate for America | Aneesh Chopra | US Office of Science & Tech | 01:00:27 | 05/2011 |
| Video | Startup America Partnership & DC2VC | Aneesh Chopra | US Office of Science and Technology | 04:36 | 05/2011 |
| Video | Case Studies of Innovation Solving Problems | Aneesh Chopra | US Office of Science and Technology | 06:14 | 05/2011 |
| Video | Entrepreneurship Gives Life Meaning [Entire Talk] | David Friedberg | WeatherBill | 59:38 | 10/2011 |

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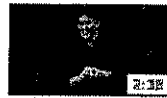
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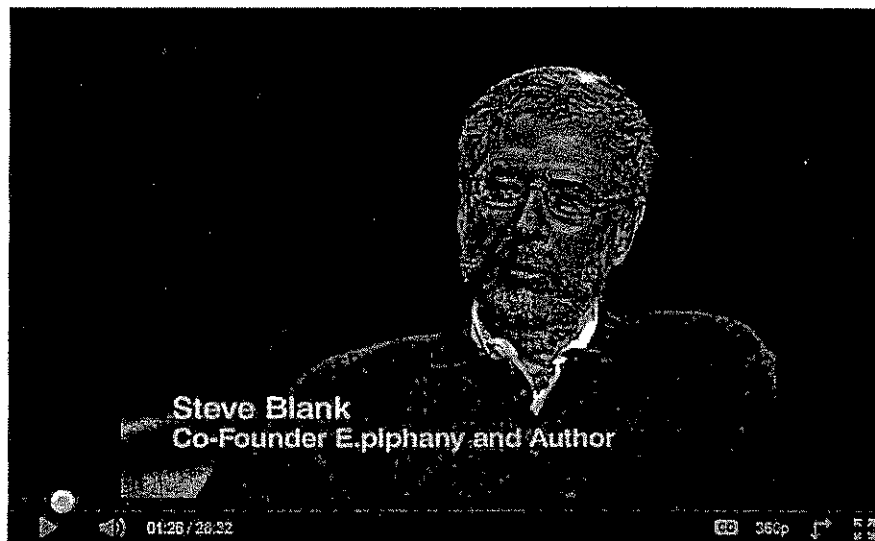
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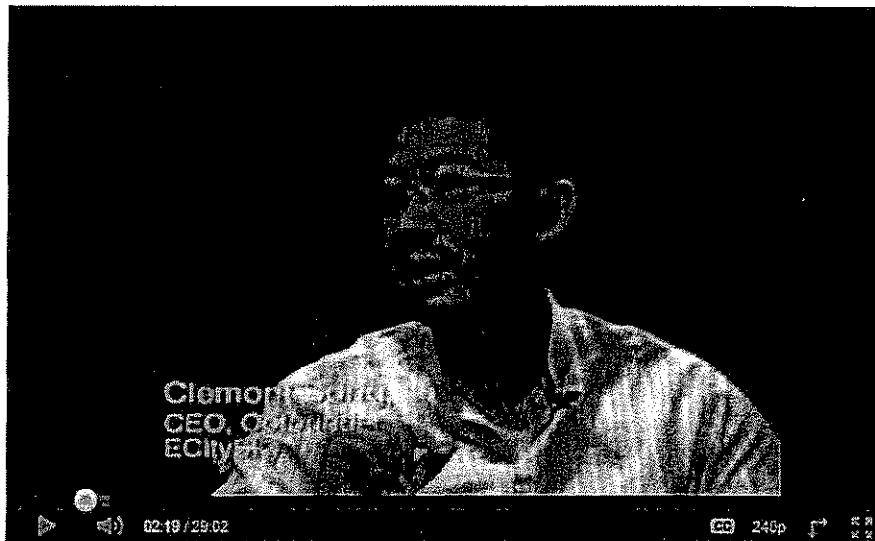
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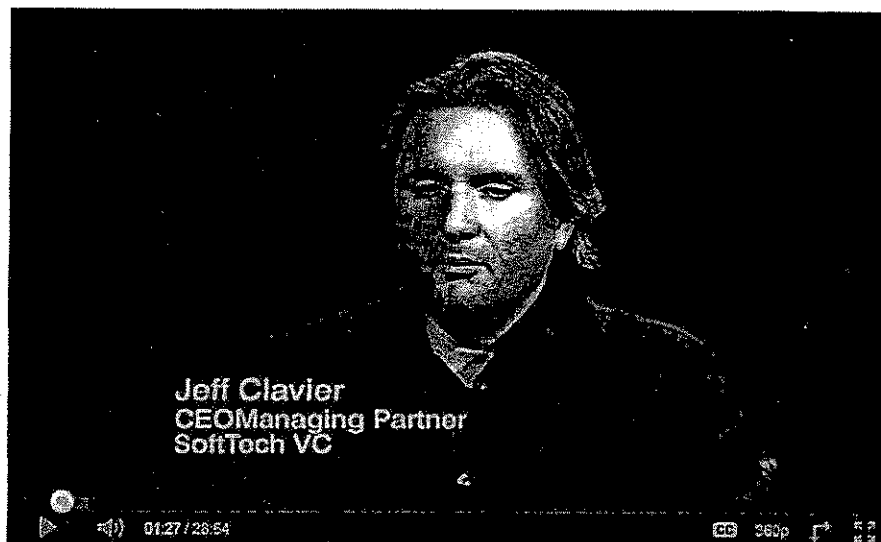
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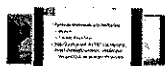
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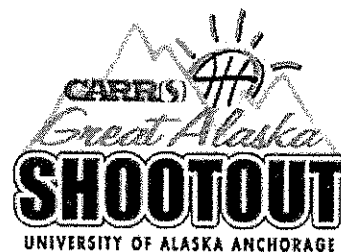


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RCP Tiburon Sprint Classic Broadcast Facts:

Event location: Tiburon, California

Available: Domestic and International Distribution

Terms and Exclusivity: Negotiable; exclusive and non-exclusive rights

Program: Thirty minutes

Supplier: Gold Medal Media, LLC

Commentators: John Naber (host); Mel Stewart (analyst) and Josh Davis (reporter)

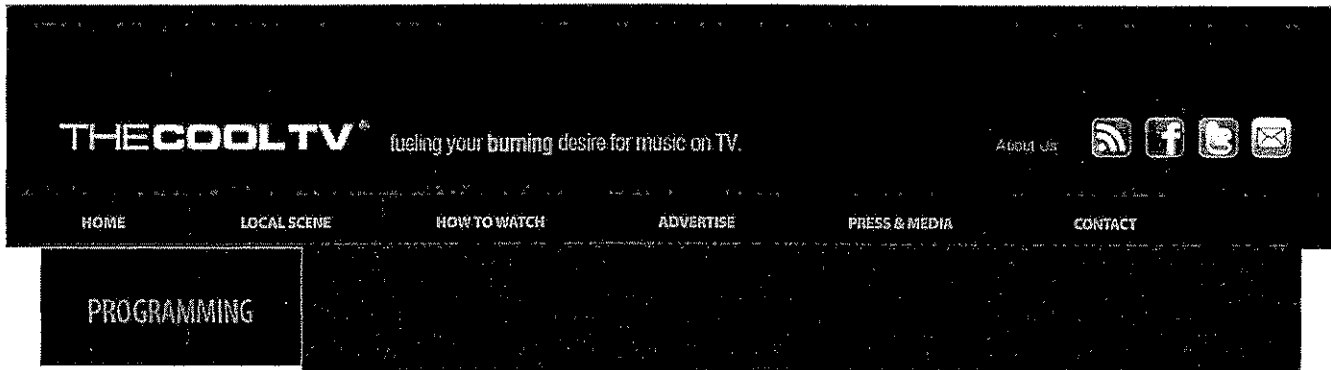
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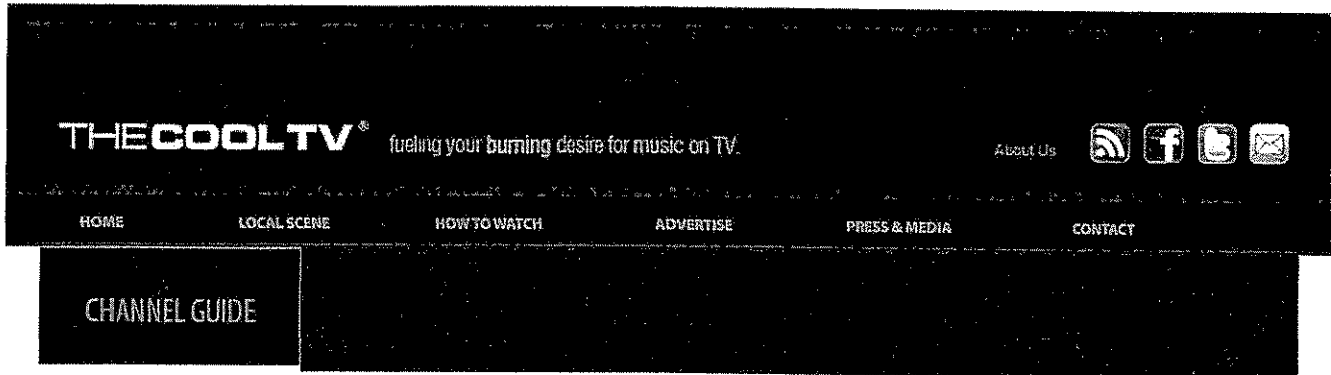


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| 6:30 AM | | | | | | | | | | | | 6:30 AM |
| 7:00 AM | | | | | | | | | | | | 7:00 AM |
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| 8:00 AM | | | | | | | | | | | | 8:00 AM |
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| 9:00 AM | | | | | | | | | | | | 9:00 AM |
| 9:30 AM | | | | | | | | | | | 9:30 AM | |
| 10:00 AM | | | | | | | | | | Time Life Music | 10:00 AM | |
| 10:30 AM | | | | | | | | | | Music Videos | Over Easy | 10:30 AM |
| 11:00 AM | | | | | | | | | | | | 11:00 AM |
| 11:30 AM | | | | | | | | | | | | 11:30 AM |
| 12:00 PM | | | | | | | | | | | Time Life Music | 12:00 PM |
| 12:30 PM | | | | | | | | | | | | 12:30 PM |
| 1:00 PM | | | | | | | | | | | Music Videos | 1:00 PM |
| 1:30 PM | | | | | | 1:30 PM | | | | | | |
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| 6:00 PM | request@thacooltv | | | | | Time Life Music | 6:00 PM | | | | | |
| 6:30 PM | Retro Rewind | | | | | Music Videos | 6:30 PM | | | | | |
| 7:00 PM | | | | | | | | | | | 7:00 PM | |
| 7:30 PM | | | | | | | | | | | 7:30 PM | |
| 8:00 PM | | | | | | | 30's at eight | | | | | 8:00 PM |
| 8:30 PM | | | | | | | | | | | 8:30 PM | |
| 9:00 PM | | | | | | | Music Videos | Underground | Music Videos | From the Road | Music Videos | 9:00 PM |
| 9:30 PM | | | | | | | | | | | | 9:30 PM |
| 10:00 PM | | | | | | | | | | | | 10:00 PM |
| 10:30 PM | | The Big Heavy | The Block | The Big Heavy | | 10:30 PM | | | | | | |
| 11:00 PM | Music Videos | | | | | Music Videos | 11:00 PM | | | | | |
| 11:30 PM | Music Videos | | | | | | 11:30 PM | | | | | |
| 12:00 AM | Music Videos | | | | | | 12:00 AM | | | | | |
| 12:30 AM | Music Videos | | | | | | 12:30 AM | | | | | |
| 1:00 AM | Music Videos | | | | | | 1:00 AM | | | | | |
| 1:30 AM | | | | | | | | | | | 1:30 AM | |
| 2:00 AM | | | | | | | | | | | 2:00 AM | |
| 2:30 AM | | | | | | | | | | | 2:30 AM | |
| 3:00 AM | | | | | | | | | | | 3:00 AM | |
| 3:30 AM | | | | | | | | | | | 3:30 AM | |
| 4:00 AM | | | | | | | | | | 4:00 AM | | |
| 4:30 AM | | | | | | | | | | 4:30 AM | | |
| 5:00 AM | | | | | | | | | | 5:00 AM | | |
| 5:30 AM | | | | | | | | | | 5:30 AM | | |

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I, Deborah D. Williams, do hereby certify on this 19th day of October, 2011 that a true and correct copy of the foregoing "RESPONSE TO SUPPLEMENT" has been sent via U.S. mail, postage prepaid to the following:

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Deborah D. Williams

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Petition of)
)
Comcast Cable Communications, LLC,)
on behalf of its subsidiaries and affiliates)
) CSR-8504-A
For Modification of the Television Market of)
Station KQSL, Channel 8, Fort Bragg, California)

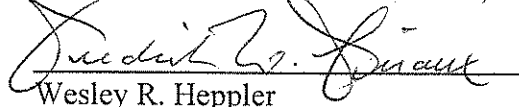
TO: Chief, Media Bureau

MOTION FOR LEAVE TO FILE RESPONSE TO SUPPLEMENT

Comcast Cable Communications, LLC, on behalf of its subsidiaries and affiliates ("Comcast"), hereby requests permission to respond to the Supplement to Opposition to Petition for Special Relief ("Supplement") filed by Jeff Chang, licensee of television station KQSL (Channel 8, Fort Bragg, California) ("KQSL" or "Station") in the above-captioned proceeding. A response is necessary to address facts presented by KQSL for the first time in its Supplement. Good cause exists to grant this motion. It is in the best interest of the Commission, the parties, and the public for the Commission to accept and consider Comcast's Response to the Supplement. The Response will enable the Commission to review Comcast's Petition with a complete and accurate record before it.

Respectfully submitted,
Comcast Cable Communications, LLC

By:


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October 19, 2011

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I, Deborah D. Williams, do hereby certify on this 19th day of October, 2011 that a true and correct copy of the foregoing "MOTION FOR LEAVE TO FILE RESPONSE TO SUPPLEMENT" has been sent via U.S. mail, postage prepaid to the following:

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City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

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Piedmont, CA 94611

CERTIFICATE OF SERVICE (continued)

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Pleasant Hill, CA 94523

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Economic Development Director
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Pleasanton, CA 94566

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Richmond, VA 94804

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City Manager
City of Rio Vista
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Rio Vista, CA 94571

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Santa Clara, CA 95050

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Saratoga, CA 95070

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City of Sebastopol
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Real Property Manager
Solano County General Services
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Fairfield, CA 94533

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CERTIFICATE OF SERVICE (continued)

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So. San Francisco, CA 94080

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City of Sunnyvale
City Hall
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Executive Director
The Presidio Trust
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San Francisco, CA 94129

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Treasure Island Development Authority
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Union City, CA 94587

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City Manager
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Vallejo, CA 94590

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Town of Woodside
2955 Woodside Road
Woodside, CA 94062

CERTIFICATE OF SERVICE (continued)

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Town Manager
Town of Yountville
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Yountville, CA 94599

KBCW Inc.
855 Battery Street
San Francisco, CA 94111-1575

KCNS
1550 Bryant Street
Suite 740
San Francisco, CA 94103

KDTV License Partnership GP
50 Fremont Street
41st Floor
San Francisco, CA 94105

KFSF
50 Fremont Street
41st Floor
San Francisco, CA 94105

KFTY
533 Mendocino Avenue
Santa Rosa, CA 94501

KGO Television Inc.
900 Front Street
San Francisco, CA 94111-1450

KICU
2102 Commerce Drive
San Jose, CA 95131

KKPX
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Suite B
Redwood City, CA 94063

KNTV
2450 N 1st Street
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KOFY
2500 Marin Street
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KPIX
855 Battery Street
San Francisco, CA 94111-1575

KRON
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KSTS
2450 N First Street
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KTLN
100 Pelican Way
Suite E-F
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KTNC
1700 Montgomery Street
Suite 400
San Francisco, CA 94111

KTSF
Lincoln Broadcasting Co
100 Valley Drive
Brisbane, CA 94005

KTVU
2 Jack London Square
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CERTIFICATE OF SERVICE (continued)

KTEH

Northern California Public Broadcasting Inc.
2601 Mariposa St.
San Francisco, CA 94110-1426

KCSM-TV

San Mateo County Community College
District
1700 W. Hillsdale Blvd.
San Mateo, CA 94402

KQED

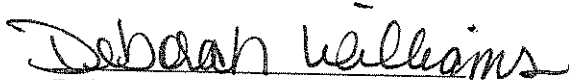
Northern California Public Broadcasting Inc.
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KMTP-TV

Minority Television Project Inc.
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KRCB

Rural California Broadcasting Corp.
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